

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 09 CR 660 (S-1) (JG)

:

-against-

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United States Courthouse
Brooklyn, New York

BETIM KAZIU, also known as :
"Abdurrahman al Albani," :
"Abdul Wahab al Albani" :
and "Sayf-Ul-Islam," :

Defendant. : June 27, 2011
9:30 o'clock a.m.

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TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE JOHN GLEESON
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Government:

LORETTA E. LYNCH
United States Attorney
BY: SHREVE ARIAIL
SETH DuCHARME
ALI KAZEMI
Assistant United States Attorneys
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Brooklyn, New York

For the Defendant:

HENRY J. STEINGLASS, ESQ.
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1 APPEARANCES CONTINUED:

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6 New York, NY 10013

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15 Proceedings recorded by mechanical stenography, transcript
16 produced by computer-aided transcription.

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1 (The following occurred in the presence of the
2 prospective jury panel.)

3 THE COURT: Okay, everybody. We are going to start
4 in a minute. I am Judge Gleeson. I want to create a little
5 more room here, though.

6 Let's see. How many folks do we have? Twelve?
7 They can use the chairs in the back.

8 (Pause.)

9 Okay. Only folks who are not prospective jurors.
10 All the prospective jurors I want in the jury box and in the
11 benches back there. Folks who are not prospective jurors, who
12 are observers, have a seat here; and if there are not enough
13 chairs, take a seat up in the back, please.

14 Can I see counsel here at the side bar?

15 (Side bar.)

16 THE COURT: Good morning.

17 How old is your client?

18 MR. STERN: Twenty-two.

19 THE COURT: Okay. Why don't we all go? Let's all
20 go. He is in the pen next door and we will all come in in the
21 custody of the marshal. All of us will go across the hall.
22 We will get him and we will all come back. All right?

23 MR. STEINGLASS: Yes, sir.

24 MR. STERN: Isn't the jury going to know he is in
25 custody?

1 THE COURT: If you don't care, I don't care.

2 MR. STERN: I do care.

3 I think what we are doing is revealing he's in
4 custody. What we have done, we're all in the back. The panel
5 comes in. We all come out together. Now we've all come in in
6 front of the jury and the one guy who doesn't come in is
7 Mr. Kaziu.

8 THE COURT: We will come in together.

9 MR. STERN: We call came in in front of the jury
10 without anybody escorting us.

11 THE COURT: I am doing the best I can.

12 MR. STERN: Okay. My opinion is, if there is
13 another panel, we should all come in together in front of the
14 jury and not just him as the one person singled out.

15 THE COURT: The less time we spend in front of the
16 jury, the less time they will realize who is here first and
17 who is here second.

18 (In open court.)

19 THE COURT: We will be back in a few minutes to
20 commence with jury selection. Be patient. It won't be long.

21 (Recess taken.)

22 (Continued on next page.)

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1 (The following occurred in the presence of the
2 prospective panel.)

3 THE COURT: Have a seat, everyone, please.

4 Good morning again. I'm Judge Gleeson. I'm going
5 to preside over the criminal case that this is the first step
6 in. This is the first step, the jury selection.

7 The first order of business in selecting a jury is
8 to place you as prospective jurors under oath. If all the
9 prospective jurors in the room could please rise?

10 Ilene.

11 THE CLERK: Please raise your right hands.

12 (The entire panel is duly sworn/affirmed by the
13 Clerk of Court.)

14 THE CLERK: Thank you.

15 THE COURT: Okay. Have a seat, everyone.

16 All right. You are only going to be here a short
17 time today. I will explain the reasons for that in a minute.

18 This is, as I mentioned, the beginning of jury
19 selection in the case of United States against Betim Kaziu.
20 Mr. Kaziu is this young man, this 22-year old young man down
21 here at the table.

22 Could you please stand and just turn around and face
23 all the jurors.

24 Okay. Thank you, Mr. Kaziu.

25 The allegations in the case, the principal charges

1 in the case, are conspiracy to provide material support to
2 terrorists, conspiracy to commit murder in a foreign country.

3 Among the allegations in the case is that the
4 defendant Kaziu attempted without success to join the foreign
5 terrorist organization Al Qaeda. There will be some evidence
6 that videotapes depicting Osama Bin Laden were seized from the
7 defendant's computer.

8 There are other charges but that's the essence of
9 the case. It's not a long trial. It will be about two weeks.

10 Now, to save you time, and I won't belabor the
11 issue, but we are saving you a lot of time by proceeding in
12 the way I have chosen to proceed, which is to have you fill
13 out a questionnaire. You will get them in a moment. They are
14 not lengthy; eight pages, not quite eight pages. That you
15 will fill out. There are no right or wrong answers. You just
16 have taken an oath to tell the truth. So just answer the
17 questionnaire as truthfully as possible.

18 After you are done with your questionnaire, you will
19 take it to one of the folks who will be standing at the doors.
20 They will tear off the front page, give it to you, because the
21 next step for you is to call, there is a phone number on the
22 questionnaire and you will call that after 7:00 o'clock
23 tonight.

24 Right, Lori, after 7:00 o'clock?

25 Okay. There is a number on the sheet that you will

1 be given. You have to know that number when you call in
2 because you are going to call in and you are going to get a
3 recording that will tell you, give you instructions, whether
4 to come back tomorrow or not. All right?

5 After you have completed, don't leave the room
6 without going to one of the people at the doors, giving it to
7 them. They will make sure you filled it all out. They will
8 tear off the questionnaire, the first page, rather, and give
9 it to you.

10 You are going to have a juror number. That's how
11 you are going to be known to all the participants in the trial
12 except for me and the people to whom I give your identifying
13 information.

14 You live here in New York and post 9/11 America, you
15 know that there is a lot of publicity in a case like this,
16 right? Journalists are interested in it. I think we might
17 have journalists in the courtroom now among the members of the
18 public that are here.

19 It's extremely important in a case like this, in
20 every case really, but it's harder to achieve in a case like
21 this, that when jurors deliberate and render their verdicts,
22 that they render their verdicts based solely on the evidence
23 in the case. On a daily basis, for those of you who are
24 selected to sit as jurors in this case, I will give you
25 instructions about steering clear of any media attention to

1 the case, any broadcasts or newspaper articles. I will give
2 you instructions about you yourself not Googling or Tweeting
3 or whatever it is you do in terms of communication. It's
4 really important to have the jurors quarantined in the sense
5 that the only information that's brought to bear on their
6 verdicts is the evidence that they hear in the case.

7 So for that reason, you are going to be known to the
8 public and to the parties, to everyone but me and my staff, by
9 your number, to insulate you from any press contacts and the
10 like, to make sure that the information that you bring to bear
11 on your verdicts in the case is the evidence and the evidence
12 only. I don't want folks contacting you during the course of
13 the trial.

14 All right. You will get questionnaires in a moment.
15 You will fill them out as truthfully as you can. They are not
16 lengthy. Follow the instructions on them.

17 After you leave, you will have with you a sheet of
18 paper. Keep that sheet of paper. After 7:00 o'clock tonight,
19 you will call the number on it and you will learn from the
20 recording that you will get when you call it whether to come
21 back in tomorrow or the next stage of jury selection.

22 All right. Have a good day.

23 I will see some of you tomorrow.

24 Thank you all for being here.

25 The parties and I will adjourn now and leave you to

1 obtain from Lori and her staff the questionnaires and to fill
2 them out.

3 Have a nice day, everyone.

4 The members of the public don't have to stick around
5 while they fill out the questionnaire. But I encourage you to
6 join us.

7 Okay.

8 (The following occurred in the absence of the jury
9 in a different courtroom.)

10 THE COURT: Mr. Dratel, you said you wanted to make
11 a record of something.

12 MR. DRATEL: Yes, Your Honor.

13 MR. ARIAIL: Your Honor, I apologize. I just want
14 to make sure the courtroom is locked.

15 THE COURT: No, it is not.

16 Ilene, if you could let -- anybody who wants to can
17 come through that side door.

18 THE CLERK: Okay.

19 THE COURT: This doesn't need to be in secret.

20 Have a seat in the back, please.

21 (The public enters the courtroom.)

22 THE COURT: Careful. Those mikes are on at the
23 table.

24 Okay. The record ought to reflect we are in a
25 courtroom adjacent to the Ceremonial Courtroom, where we just

1 handed out the questionnaires. The members of the public who
2 wanted to join us are here as well.

3 You wanted the make a record?

4 MR. DRATEL: Yes, Your Honor.

5 Thank you.

6 Unfortunately, because of the logistics of what
7 occurred in the other room is that everybody was in the room
8 except for Mr. Kaziu initially and then we left and came back
9 with Mr. Kaziu and two marshals. We just think it was evident
10 that Mr. Kaziu was obviously in a different category and in
11 custody, unfortunately, so we wanted to object to that.

12 Also, to the extent that we, you know -- obviously
13 when we do these things again with a different panel, even the
14 same panel, we would hope that we would all be in the
15 courtroom seated when the jury comes in as opposed to the
16 procedure we just had.

17 THE COURT: Fair enough.

18 You've got your objection on the record.

19 For what it is worth, I think with about a dozen
20 people leaving and 12 or 13 coming back, I don't think it was
21 nearly as obvious as you think, the defendant's separate
22 status, but you have your objection.

23 Now, you are going to standby so that when the jury
24 people have the completed questionnaires you will take them
25 and get them quickly photocopied and then bring them back to

1 the courthouse.

2 MR. ARIAIL: Your Honor, in terms of the
3 defense -- in terms of the government, of course, we will do
4 it as fast as possible. I think defense has indicated that
5 they are going to be handling this process and that we'd be
6 sort of tagging along.

7 THE COURT: All right.

8 MR. DRATEL: I thought we would have one
9 representative from each.

10 THE COURT: Yes. I want Alicyn to go, please.
11 Remember, you are going to have in your hands the original
12 questionnaires.

13 MR. DRATEL: Right.

14 However the Court wants to do it. I was thinking
15 that since the government has to come back here anyway --

16 THE COURT: Excuse me.

17 Could you let them know they are free to come in.
18 There are people at the door. That door is locked. I want to
19 make sure they can come in the side door.

20 MR. DRATEL: Should I continue?

21 THE COURT: Wait one second.

22 (Pause.)

23 They might just be people milling about out there.

24 It's Judge Reyes. It is his courtroom. We locked
25 out Judge Reyes. So speak fast. Let's get out of here.

1 MR. DRATEL: Just so, since the government has to
2 come back anyway, if they could bring back the originals and
3 we would just take ours and head back and start reading.
4 That's what I thought we would do.

5 THE COURT: That's fine.

6 All right. So you will let me know before -- what
7 time did I give you?

8 MR. STEINGLASS: 11:00.

9 THE COURT: No. You are going to get to me your
10 joint submission about who should be excused based on the
11 questionnaire. I think Lori has to have the information by
12 4:00 o'clock.

13 THE CLERK: Yes, Judge.

14 THE COURT: So as much as possible before 4:00
15 o'clock.

16 MR. DRATEL: As much as possible.

17 THE COURT: All right.

18 MR. DRATEL: We will work out with the government a
19 means by which we can get through as many as we can and let
20 the Court know where we are because I am not sure that we can
21 get through 250.

22 THE COURT: You can get through as many as we can.
23 Then we will see all to morning at 9:30 in my
24 courtroom.

25 MR. STERN: If it is okay with the marshals, we

1 would like to speak with Mr. Kaziu in the holding cell. If
2 they can have him --

3 THE MARSHAL: Yes. We can have him available.

4 THE COURT: Great. See you tomorrow.

5 (Matter adjourns until 9:30, June 28, 2011.)
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